

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

HERMAN PATTERSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-12-738-HE
	)	
MARVIN VAUGHN, WARDEN, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**Report and Recommendation: Motion for “Emergency Action” (Doc. 3)**

In this habeas action, Mr. Herman Patterson has filed a motion for emergency action.

Doc. 3. This motion should be denied on grounds of mootness.

He filed the same motion in another habeas case, CIV-12-376-HE. In that case, the Court dismissed the petition without prejudice for failure to exhaust state court remedies. In light of that dismissal, the Court denied the motion for emergency action (called there a “motion for protection”) as moot. *Patterson v. Vaughn*, CIV-12-376-HE (W.D. Okla. Sept. 13, 2012) (Doc. 20).

The undersigned is simultaneously recommending dismissal of the present habeas action for failure to exhaust state court remedies. With this dismissal, the Court should deny the motion for emergency action on grounds of mootness (as had been done in Case No. CIV-12-376-HE).

The parties can object to the present report. Any such objection must be filed with the Clerk of this Court by November 15, 2012.<sup>1</sup> The failure to timely object could prevent appellate review of the proposed ruling.<sup>2</sup>

The referral is discharged.

Entered this 29th day of October, 2012.

  
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Robert E. Bacharach  
United States Magistrate Judge

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<sup>1</sup> See Fed. R. Civ. P. 6(d), 72(b)(2); 28 U.S.C.A. § 636(b)(1) (West 2011 supp.).

<sup>2</sup> See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).